

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Declaratory Ruling That)	WC Docket No. 03-45
pulver.com's Free World Dialup)	
Service Is Neither Telecommunications)	
nor a Telecommunications Service)	

**COMMENTS OF GLOBAL CROSSING
NORTH AMERICA, INC.**

Pursuant to the Bureau's Public Notice,¹ Global Crossing North America, Inc. ("Global Crossing") submits these brief comments on the petition of pulver.com seeking confirmation that its Free World Dialup ("FWD") service is not a regulated telecommunications service.²

To the extent that a declaratory ruling is warranted,³ the Commission should grant the petition. However, the Commission should recognize that the service application presented by pulver.com is somewhat unique and focus its efforts on resolving the broader issues raised in the AT&T petition.⁴

¹ Public Notice, DA 03-349, *Pleading Cycle Established for Comments on pulver.com Petition for Declaratory Ruling*, WC Dkt. 03-45 (Feb. 14, 2003).

² Petition for Declaratory Ruling That pulver.com's Free World Dialup Service Is Neither Telecommunications nor a Telecommunications Service, WC Dkt. 03-45 (Feb. 5, 2003) ("Petition").

³ The Commission may issue a declaratory ruling to "terminate a controversy or remove uncertainty." *See* 47 C.F.R. § 1.2. There does not appear to be any significant controversy raised in the Petition. pulver.com wishes to send a "strong signal to the international community that [FWD] should remain unregulated worldwide." Petition at 1; *see also id.* at 2 ("A ruling that FWD is neither telecommunications nor a telecommunications service eliminates investors' perception of regulatory risk and offers assurances to consumers that FWD, which is free, is completely legal.") Although Global Crossing is skeptical that this rises to the level of a concrete controversy, it leaves to the Commission a determination whether such statements warrant declaratory relief.

⁴ *See Petition for Declaratory Ruling That AT&T's Phone-to-Phone IP Telephony Services Are Exempt from Access Charges*, WC Dkt. 02-361 (Nov. 18, 2002).

The Petition makes clear that FWD is, in fact, neither telecommunications nor a telecommunications service as elucidated by the Commission in its Report to Congress.⁵ On the basis of pulver.com's description of its FWD service, the Commission should declare that FWD service is neither telecommunications nor a telecommunications service.

However, regardless of the disposition of pulver.com's petition, the Commission should focus its efforts on addressing the broader issues raised in AT&T's petition regarding the regulatory status of voice over internet protocol ("VoIP") services. As the record in that proceeding demonstrates, these issues are of significant import and have engendered substantial controversy and uncertainty. Incumbent local exchange carriers ("ILECs") are taking advantage of this controversy by attempting to act as the regulators of VoIP services, thereby retarding the deployment and concomitant benefits of VoIP services.⁶ The Commission needs to remind the ILECs that they are not industry regulators and needs to eliminate the existing controversy surrounding the regulatory status of VoIP services forthwith. The Commission may best do so, and at the same time, foster the deployment of internet-based voice services by promptly granting AT&T the relief that it requests.

⁵ Petition at 4; *see Federal-State Joint Board on Universal Service*, 13 FCC Rcd 11501, ¶ 88 (1998).

⁶ *See Petition for Declaratory Ruling That AT&T's Phone-to-Phone IP Telephony Services Are Exempt from Access Charges*, WC Dkt. 02-361, Comments of Global Crossing North America, Inc. at 5-6 (Dec. 18, 2002); Reply Comments of Global Crossing North America, Inc. at 3-4 (Jan. 24, 2003).

For the foregoing reasons, the Commission should focus its efforts on clarifying the broader issues as outlined in the AT&T petition. To the extent that the Commission believes that declaratory relief is warranted in this context, it should grant the pulver.com petition.

Respectfully submitted,

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March 14 , 2003

Certificate of Service

I hereby certify that, on this 14th day of March, 2003, a copy of the foregoing Comments of Global Crossing North America, Inc. were served by first-class mail, postage prepaid, upon:

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